

REMARKS**Paragraph 1 of the Office Action**

Newly submitted claim 7 is directed to an invention that is independent or distinct
5 from the invention originally claimed.

Claim 7 has been cancelled.

Paragraph 2 of the Office Action

Claims 5-6 are rejected under 35 U.S.C. §103(a) as being unpatentable over
10 Mardirosian.

As previously stated in the previous response: As in the cases above (see previous response), it is respectfully submitted that the Examiner has not given any reason for the modification aside from the fact that the modification is found in applicant's device. For these reasons, it is believed that claims 5 and 6 are each in condition for allowance.

15 It is respectfully submitted that Examiner has still failed in showing the motivation for game pieces as defined by the applicant. Mardirosian is not an adequate citation for showing this because a single top piece is not moved between varied bottom pieces as is defined by the applicant. Though pieces are shown as reference numerals 41 and 50, both represent a bishop of a chess set. Additionally, the reason Mardirosian
20 makes the changes is not to better represent the game of chess but to change the game of chess. Applicant's device is used to better represent checkers without changing the rule of checkers.

Also, the applicant believes that making the office action final is improper as the Examiner cited a new reference against claim 5 and only the preamble of claim 5 had
25 been amended. Thus the Examiner has formed a new argument against what was, essentially, the originally submitted claim.

Withdrawal of the rejection is respectfully requested by the applicant.

CONCLUSION

5

In light of the foregoing amendments and remarks, early consideration and allowance of this application are most courteously solicited.

Respectfully submitted,

10



Date: 12/9/04

Sean A. Kaufhold (Reg. No. 46,820)

P.O. Box 131447

15

Carlsbad, CA 92013

(760) 470-3368 FAX (760) 736-8449